

**LAW OFFICES OF DALE K. GALIPO**

Dale K. Galipo, Esq. (Bar No. 144074)

dalekgalipo@yahoo.com

Hang D. Le, Esq. (Bar No. 293450)

hlee@galipolaw.com

21800 Burbank Boulevard, Suite 310

Woodland Hills, California, 91367

Telephone: (818) 347-3333

Facsimile: (818) 347-4118

Attorneys for Plaintiffs

JONATHAN WAYNE BOTTEN, SR.,

TANJA DUDEK-BOTTEN, ANNABELLE BOTTEN,

AND J.B.

**UNITED STATES DISTRICT COURT FOR THE  
CENTRAL DISTRICT OF CALIFORNIA**

JONATHAN WAYNE BOTTEN, SR.;

TANJA DUDEK-BOTTEN;

ANNABELLE BOTTEN; and J.B., a

minor, by and through his guardian

JONATHAN WAYNE BOTTEN, SR.,

Plaintiffs,

vs.

STATE OF CALIFORNIA; COUNTY

OF SAN BERNARDINO; ISAIAH

KEE; MICHAEL BLACKWOOD;

BERNARDO RUBALCAVA; ROBERT

VACCARI; JAKE ADAMS; and DOES

1-10, inclusive,

Defendants.

Case No. 5:23-cv-00257-KK-SHK

*Honorable Kenly Kiya Kato*

**STIPULATION FOR DISMISSAL  
WITH PREJUDICE OF  
PLAINTIFFS' FOURTH  
AMENDMENT CLAIM**

**TO THE HONORABLE COURT ALL PARTIES AND THEIR ATTORNEYS**  
**OF RECORD:**

Under Federal Rule of Civil Procedure 41(a)(2), Plaintiffs Jonathan Wayne Botten, Sr., Tanja Dudek-Botten, Annabelle Botten, and J.B., a minor by and through his guardian *ad litem* Jonathan Wayne Botten, Sr. (“Plaintiffs”) and Defendants Isaiah Kee and Bernardo Rubalcava (“Defendants”) (collectively, “the Parties”), hereby stipulate and request as follows:

1. Plaintiffs filed this action on February 16, 2023, against Defendants State of California, California High Patrol Officers Isaiah Kee, Michael Blackwood, and Bernardo Rubalcava, (together “State Defendants”), County of San Bernardino and County of San Bernardino Sheriff’s Deputies Robert Vaccari and Jake Adams (together “County Defendants”) (collectively “Defendants”), alleging federal claims under the Fourth and Fourteenth Amendments pursuant to 42 U.S.C. § 1983 and state law claims of battery, negligence, negligent infliction of emotional distress, and violation of the Bane Act.

2. On August 21, 2023, the Court dismissed all claims against the State of California when it granted the State Defendants’ motion to dismiss. (Dkt. No. 47.)

3. Plaintiffs and the County Defendants reached a settlement and filed a stipulation for dismissal of the County Defendants on July 9, 2025. (Dkt. No. 126.)

4. On January 30, 2025, State Defendants filed a Motion for Summary Judgment (“State Defendants’ MSJ”) on all claims asserted in Plaintiffs’ operative First Amended Complaint (FAC). (*See* Dkt. Nos. 86, 87).

5. On February 25, 2025, the Court dismissed Plaintiffs’ Fourth Amendment, Fourteenth Amendment substantive due process, battery, and Bane Act claims (Causes of Action One, Two, Three, and Six of the FAC) as to Defendant Blackwood pursuant to the parties’ stipulation. (Dkt. No. 94.)

6. On May 5, 2025, the Court issued an Order Granting in Part and Denying in Part State Defendants’ Motion for Summary Judgment. (Dkt. No. 120).

1 Specifically, the Court denied summary judgment on Plaintiffs' Fourth Amendment,  
2 battery, negligence, negligent infliction of emotional distress, and Bane Act claim as  
3 to Defendants Kee and Rubalcava, finding disputed issues of triable fact that  
4 precluded summary judgment, and that viewing the facts in the light most favorable  
5 to Plaintiffs, Kee and Rubalcava were not entitled to qualified immunity on  
6 Plaintiff's Fourth Amendment claim. (*Id.*). The Court granted summary judgment on  
7 Plaintiffs' Fourteenth Amendment substantive due process claim and Plaintiffs'  
8 negligence and negligent infliction of emotional distress with respect to Defendant  
9 Blackwood. (*Id.*).

10 7. On June 4, 2025, Defendants Kee and Rubalcava filed a Notice of  
11 Appeal to the Ninth Circuit on the denial of qualified immunity on Plaintiffs' Fourth  
12 Amendment claim. (Dkt. No. 121) The interlocutory appeal from the denial of  
13 qualified immunity divested the district court of jurisdiction to proceed with trial.  
14 *Mitchell v. Forsyth*, 472 U.S. 511, 530 (1985); *Chuman v. Wright*, 960 F.2d 104, 105  
15 (9th Cir. 1992).

16 8. Plaintiffs and the remaining Defendants reached an agreement whereby  
17 the Plaintiffs dismiss, with prejudice, their Fourth Amendment claim in exchange for  
18 Defendants' dismissal of their interlocutory appeal without prejudice to  
19 reinstatement. To that end, counsel for the Defendants presented Plaintiffs' attorney  
20 with a proposed stipulation for dismissal of the interlocutory appeal on June 18,  
21 2025. Plaintiffs' counsel approved and signed the stipulation to dismiss the appeal on  
22 July 9, 2025. The stipulation for dismissal of the interlocutory appeal is being filed in  
23 the Ninth Circuit on the same day the parties file this stipulation in this Court.

24 9. The parties further agree that, after dismissal of the Fourth Amendment  
25 claim, Defendants will not oppose Plaintiffs' request for this Court to exercise  
26 supplemental jurisdiction over the remaining state-law claims.

1           10. Accordingly, Plaintiffs and Defendants Kee and Rubalcava stipulate and  
2 request, and good cause appearing, that the Court dismiss Plaintiffs' Fourth  
3 Amendment claim with prejudice.

4           11. Each party shall bear their own costs and attorney fees incurred in  
5 litigating Plaintiffs' Fourth Amendment claim.

6  
7 Respectfully Submitted,

8  
9 DATED: July 9, 2025

LAW OFFICES OF DALE K. GALIPO

10  
11 Bv /s/ Hang D. Le

12 Dale K. Galipo  
13 Hang D. Le  
14 Attorneys for Plaintiffs

15 DATED: July 9, 2025

16 ROB BONTA  
17 Attorney General of California  
18 NORMAND D. MORRISON  
19 Supervising Deputy Attorney General

20 */s/ Diana Esquivel\**

21 DIANA ESQUIVEL  
22 Deputy Attorney General  
23 *Attorneys for Defendants Kee and Rubalcava*

24 \*The filer, Hang D. Le, hereby attests that all other signatories listed, and on whose  
25 behalf the filing is submitted, concur with the filing's content and have authorized  
26 the filing.  
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